

APPEAL NO. 040814  
FILED JUNE 2, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 10, 2004. The hearing officer determined that the Independent Review Organization's (IRO) recommendation that the respondent's (claimant) proposed spinal surgery should be performed is supported by a preponderance of the evidence. The respondent (carrier) appeals this determination. The appeal file contains no response from the claimant.

DECISION

Affirmed.

Whether the IRO's decision was supported by a preponderance of the evidence was a factual question for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TEXAS PROPERTY & CASUALTY INSURANCE GUARANTY ASSOCIATION for Reliance National Indemnity Company, an impaired carrier** and the name and address of its registered agent for service of process is

**MARVIN KELLY, EXECUTIVE DIRECTOR  
T.P.C.I.G.A.  
9120 BURNET ROAD  
AUSTIN, TEXAS 78758.**

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Chris Cowan  
Appeals Judge

CONCUR:

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Daniel R. Barry  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge